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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,906	04/16/2001	David B. Edreich	01-4795	5516
7590	12/04/2003		EXAMINER	
Edward M. Livingston, Esq. 628 Ellen Dr. P.O. Box 1599 Winter Park, FL 32790			TRINH, TAN H	
			ART UNIT	PAPER NUMBER
			2684	3
DATE MAILED: 12/04/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/835,906	EDREICH, DAVID B.
Examiner	Art Unit	
TAN TRINH	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 April 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 and 11-20 is/are rejected.
- 7) Claim(s) 10 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 4-16-2001 has been received and placed of record in the file.

Allowable Subject Matter

1. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons for allowance

2. The following is an examiner's statement of reasons for allowance:

Regarding claim 10, the prior art fail to teach or suggest, the cell-phone retractable earpiece wherein: the reel axle is wind-tensioned with an electrical motor.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-9 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bae (U.S. Patent No. 6,542,757) in view of Davis (U.S. Patent No. 5,761,298).

Regarding claim 1, Bae teaches the cell-phone retractable earpiece (see fig. 2) comprising: a phone-wire reel in a reel pocket on a cell phone that is attachable to a cell-phone user (see fig. 2, items 115, 125 and 215); phone wire in phone-electrical communication with the cell phone proximate a reel end of the phone wire that is attached to a reel axle onto which the phone wire is windable (see fig. 2, col. 4, lines 63-col.5, lines 12); the reel axle being wind-tensioned to wind the phone wire onto the phone-wire reel in opposition to pulling the phone wire and locking the reel axle in a selectively unwound mode (see figs. 2-4, col. 5, lines 13-51). But Bae fails to show the ear hook containing an ear-hook portion of the phone wire; the ear hook having an ear rest on a top of a user ear, an ear-aft curvature and a hook bottom proximate a bottom of the user ear; an ear-size adjuster containing an adjuster portion of the phone wire and having adjustability of length of the ear-size adjuster intermediate the top of the ear and an ear cavity of the user's ear; a sound reproducer on a bottom of the ear-size adjuster proximate the ear cavity; a sound conveyor in sound communication intermediate the sound reproducer and a predetermined position in the ear cavity; and a microphone on a microphone extension in phone-sound communication with the phone wire proximate a user's mouth.

However, Davis teaches the ear hook containing an ear-hook portion of the phone wire (see Davis fig. 2, ear hook 13); the ear hook having an ear rest on a top of a user ear (see fig. 2, items 12-13), an ear-aft curvature (see fig. 9 the curvature P1-P2) and a hook bottom proximate a bottom of the user ear (see figs. 9-10, item 64, col. 9, lines 4-12); an ear-size adjuster containing an adjuster portion of the phone wire and having adjustability of length of the ear-size adjuster

intermediate the top of the ear and an ear cavity of the user's ear (see figs. 1-2, col. 4, lines 42-, col. 5, lines 21); a sound reproducer on a bottom of the ear-size adjuster proximate the ear cavity; a sound conveyor in sound communication intermediate the sound reproducer and a predetermined position in the ear cavity (see figs. 1-2 and 4, col. 6, lines 32-55); and a microphone on a microphone extension in phone-sound communication with the phone wire proximate a user's mouth (see fig. 8, microphone extension 20).

Therefore, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Bae system by providing the teaching of Davis on the communications headset thereto in order to improved hands-free telephone device and providing user to select an ear bud that is most comfortable from variety of differently size and shaped ear buds.

Regarding claim 2, Davis teaches the sound reproducer includes a miniature conical horn that circles an entrance to an inner portion of the user ear (see Davis fig. 2, ear bud 46).

Regarding claim 3, Davis teaches the sound reproducer includes a tubular member that is extended predetermined towards an inner portion of the user ear (see Davis fig. 2, ear bud 46, and the extended socket 44).

Regarding claim 4, Davis teaches the ear hook includes an ear clamp (see fig. 9, clamp from P1-P2 curve) having a first clamp jaw attached to the ear hook and a second clamp jaw with

an ear-grasp member attached to the sound reproducer (see figs. 2, 7-10, col. 8, lines 50-col. 9, lines 12).

Regarding claim 5, Davis teaches the microphone is extended from the phone wire proximate the sound reproducer to proximate the mouth of the cell-phone user (see fig. 10).

Regarding claim 6, Davis teaches the microphone is extended from the phone wire at proximate a bottom of the ear hook to proximate the mouth of the cell-phone user (see fig. 10, col. 9, lines 13-24).

Regarding claim 7, Davis teaches the microphone is extended from the phone wire proximate the sound reproducer to proximate the mouth of the cell-phone user.

Regarding claim 8, Davis teaches wherein the microphone is on a retractable appendage for selectively retractable positioning of the microphone intermediate the phone wire and the user's mouth (see fig. 10 retractable 26).

Regarding claim 9, Davis teaches wherein the microphone is on a retractable appendage for selectively retractable positioning of the microphone intermediate the phone wire and the user's mouth (see fig. 10 retractable).

Regarding claim 11, Bae teaches wherein the reel axle is wind-tensioned with a mechanical spring (see Bae fig. 3 spring 340).

Regarding claim 12, Bae teaches the phone-wire reel is locked in the selectively unwound mode with a winding lock (see Bae figs. 2-3, col. 5, lines 13-40).

Regarding claim 13, Bae teaches wherein the winding lock includes a phone-wire clamp (see fig. 3, the cord reel holds 215 and fig. 5, reel lock 405).

Regarding claim 14, Bae teaches the winding lock includes an un-locker that unlocks the winding lock with an unlock communication to the winding lock (see fig. 2, reel activate button 130, and col. 5, lines 1-8).

Regarding claim 15, Bae teaches the unlock communication includes a double jerk of the phone wire (see fig. 5, disengages cord reel 405).

Regarding claim 16, Bae teaches the unlock communication includes a predetermined touching of the reel pocket (see fig. 2 the pocket 210).

Regarding claim 17, Bae teaches the phone wire has a length of approximately three feet (see fig. 2, phone wire 115).

Regarding claim 18, Bae teaches the phone wire is standard phone wire that is used commonly intermediate a phone jack and a telephone handset (see figs. 1-2, the handset 120, col. 3, lines 62-col. 4, lines 13).

Regarding claim 19, Bae teaches the phone wire is customized phone wire having an insulated outside perimeter that is circumferential with a diameter of approximately two millimeters and contains all standard phone-wire lines with predetermined thin insulation on the phone-wire lines (see fig. 2 and col. 3, lines 62-67, col. 4, lines 1-34).

Regarding claim 20, Bae teaches the reel pocket has a thickness of approximately one-quarter inch, a width no greater than a width of the cell phone and a length no greater than a length of the cell phone (see fig.2).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Furuno (U.S. Patent No. 5,724,667) discloses portable telephone having removable transducer. Hahn (U.S. Patent No. 6,078,825) discloses modular wireless headset system for hands free talking.

Art Unit: 2684

6. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for Technology Center 2600 only)

*Hand-delivered responses should be brought to Crystal Park II,
2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Trinh whose telephone number is (703) 305-5622. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung, can be reached at (703) 308-7745.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Technology Center 2600 Customer Service Office** whose telephone number is **(703) 306-0377**.

Tan H. Trinh
Art Unit 2684
Nov. 26, 2003

